

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

HOWARD SANDERS,	:
	:
Petitioner,	: CIVIL NO. 3:CV-07-2263
	:
vs.	: (JUDGE VANASKIE)
	:
WARDEN, USP-ALLENWOOD, <u>et al.</u> ,	:
	:
Respondents.	:

MEMORANDUM

I. Background

\_\_\_\_\_ Before the Court is a habeas corpus petition filed pursuant to [28 U.S.C. § 2241](#) by Howard Sanders, an inmate currently confined at the Metropolitan Detention Center in Brooklyn, New York. At the time Sanders filed this action, he was confined at the United States Penitentiary at Allenwood (USP-Allenwood), Pennsylvania. Named as Respondents are the Warden at USP-Allenwood and unnamed New Jersey State officials. In the petition, Sanders maintains that the Warden at USP-Allenwood (1) violated the Interstate Agreement on Detainers by exceeding the 180 Day Clause to either take him to trial or dismiss the charges against him with prejudice, and (2) misapplied Bureau of Prisons Program Statement 5100.08, Inmate Security Designation and Custody Classification, in that said program statement was not in effect at the time he was sentenced. He seeks his release from confinement and/or a

change in his custody classification by the BOP. On May 29, 2008, an Order to Show Cause was issued directing Respondents to file a response to the petition. (Dkt. Entry 6.) A response was thereafter submitted on June 17, 2008. (Dkt. Entry 10.) No traverse has been filed by Petitioner. For the reasons that follow, the petition will be dismissed for failure to exhaust administrative remedies.

II. Discussion

Sanders was confined at USP-Allenwood from February 28, 2007, through April 18, 2008, on which date he was transferred to the Federal Medical Center located in Devens, Massachusetts. (Dkt. Entry 10, Ex. 1, Sullivan Decl., ¶¶ 2, 3.) Thereafter, Sanders was transferred to MDC Brooklyn in New York, where he is currently confined. (Id., ¶ 4.) On May 21, 2008, he was designated to continue serving his sentence at FCI-Fairton, New Jersey, but currently remains at MDC Brooklyn in "holdover" status, awaiting transportation to the New Jersey facility. (Id., ¶¶ 5, 6.)

Sanders challenges the legality of his confinement based upon an allegation that the Interstate Agreement on Detainers was violated with regard to the time limitations for either taking him to trial or dismissing certain charges against him. He also challenges the security designation/custody classification assigned to him by the BOP, claiming that the policy was not in effect at the time he was sentenced.

Respondents seek the dismissal of the habeas petition on the ground that Sanders has

failed to exhaust his administrative remedies with regard to his claims. In support of their argument, the declaration of K. Michael Sullivan, Senior Attorney at the Federal Correctional Complex at Allenwood, Pennsylvania, has been submitted. (Id.)

It is well-settled that “[f]ederal prisoners are ordinarily required to exhaust their administrative remedies before petitioning for a writ of habeas corpus pursuant to § 2241.” [Moscato v. Federal Bureau of Prisons](#), 98 F.3d 757, 760 (3d Cir. 1996); see also [Hegney v. Hogsten](#), Civ. No. 1:CV-07-0271, 2008 WL 282371 at \*3 (M.D. Pa. Jan. 31, 2008)(Conner, J.). A party is required to exhaust administrative remedies before seeking relief in federal court unless Congress has indicated to the contrary or the available administrative remedies are inherently inadequate. [Muhammad v. Carlson](#), 739 F.2d 122, 123 (3d Cir. 1984); see also [Young v. Quinlan](#), 960 F.2d 351, 356 (3d Cir. 1992). Exhaustion is required “for three reasons: (1) allowing the appropriate agency to develop a factual record and apply its expertise facilitates judicial review; (2) permitting agencies to grant the relief requested conserves judicial resources; and (3) providing agencies the opportunity to correct their own errors fosters administrative autonomy.” [Moscato](#), 98 F.3d at 761-62.

The Bureau of Prisons (“BOP”) has established a multi-tier system by which a prisoner may seek formal review of any aspect of his imprisonment. See [28 C.F.R. §§ 542.10-542.16 \(1994\)](#). First, “[i]nmates shall informally present their complaints to staff, and staff shall attempt

to informally resolve any issue before an inmate files a request for Administrative Remedy." [Id.](#), at § 542.13(a). Second, "[i]f an inmate is unable to informally resolve his complaint, he may file a formal written complaint [to the warden], on the appropriate form, within twenty (20) calendar days of the date on which the basis of the complaint occurred." [Id.](#), at § 542.15(a). In the event the inmate is dissatisfied with the warden's response, he may file an appeal to the BOP Regional Director within twenty (20) days. [Id.](#), § 542.15(a). Finally, if the inmate is dissatisfied with the Regional Director's response, that decision may then be appealed to the BOP Central Office within thirty (30) calendar days from the date of the Regional Director's response. [Id.](#) No administrative remedy appeal is considered to have been fully exhausted until rejected by the BOP's Central Office. [28 C.F.R. § 542](#), [et seq.](#)

On June 10, 2008, Sullivan conducted a search of the BOP's Administrative Remedies Generalized Retrieval System to determine whether or not Sanders had exhausted his available administrative remedies regarding the issues he raises in the instant petition. The review revealed that Sanders has never filed any administrative remedies. Accordingly, the petition is subject to dismissal for failure to exhaust administrative remedies. An appropriate Order is attached.

s/ Thomas I. Vanaskie  
Thomas I. Vanaskie  
United States District Judge

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ORDER

\_\_\_\_ NOW, THIS 26th DAY OF AUGUST, 2008, in accordance with the foregoing

Memorandum, IT IS HEREBY ORDERED AS FOLLOWS:

1. The petition for writ of habeas corpus is DISMISSED.
2. The Clerk of Court is directed to mark this case CLOSED.

s/ Thomas I. Vanaskie

Thomas I. Vanaskie  
United States District Judge